Supreme Court, U.S.
FILED

CASE NO. 02 776 OCT 15 2002

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2002

MICHAEL B. KING,
YOLANDA YVETTE GALIMORE
and EUGENE GREEN, JR.,

Appellants.

v.

STATE OF GEORGIA,

Appellee.

ON APPEAL FROM
THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

APPELLANTS' JURISDICTION STATEMENT

Michael B. King, Esq.
Attorney for Appellants
116 S. Main Street
Suite 9
Jonesboro, GA 30236
(770) 478-3555

QUESTIONS PRESENTED

1.

The district court erred in denying appellants' an evidentiary hearing on their requests for temporary restraining orders and preliminary injunctions.

2.

The district court erred in denying appellants' requests for temporary restraining orders and preliminary injunctions.

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B. Appellants' Notice Of Appeal 1B

TABLE OF AUTHORITIES

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42 U.S.C. Section 1973 1

42 U.S.C. Section 1253 2

OPINIONS BELOW

There were no published opinions in this case. The order denying appellants' requests for temporary restraining orders and preliminary injunctions is included herein as Appendix A.

STATEMENT OF JURISDICTION

This appeal arises from an order denying appellants' requests for temporary restraining orders and preliminary injunctions in actions filed under Section 2 of the 1965 Voting Rights Act. A timely notice of appeal was filed on August 15, 2002. This Court has jurisdiction over this appeal pursuant to Section 2 of the 1965 Voting Rights Act, 42 U.S.C. Section 1973 and 28 U.S.C. Section 1253.

STATUTORY PROVISION INVOLVED

Section 2 of the 1965 Voting Rights Act, 42 U.S.C. Section 1973 provides:

> (a) No voting qualification or prerequiste to voting or standard, practice, or procedure shall be imposed or applied by any State or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973(f)(2) of this title, as provided in subsection (b) of this section.
>
> (b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to

nomination or election in the State or policical subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

28 U.S.C. Section 1253 provides:
Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.

STATEMENT OF CASE

1.

On November 23, 2001, appellant Michael B. King filed his Complaint for Injunctive and Other Equitable Relief under Section 2 of the 1965 Voting Rights Act requesting the district court to enter an order granting preliminary and injunctive relief, preventing the State of Georgia from holding any elections for the 44th Senate District pursuant to the senate redistricting bill, 1EX1.

2.

On or about December 14, 2001, the appellee moved to dismiss or stay appellant's action pending the final disposition of the appellee's Complaint for Declaratory Judgment in **The State Of Georgia v. John Ashcroft, et al., Civil Action No. 01-2111(EGS, HTE, LFO)** (This case is presently pending in this court on appeals filed by Michael B. King in Case Nos. 02-125 and 02-425. The appellee also filed an appeal to this court.)

3.

Over Michael B. King's objection, the district court granted the appellee's motion to stay but denied the request to dismiss appellant's action.

4.

On April 5, 2002, the U.S. District Court for the District of Columbia denied the appellee's request for declaratory judgment holding that the state senate

redistricting map did violate section 5 of the 1965 Voting Rights Act.

5.

On June 3, 2002, the Washington, D.C. federal district considered a revised state senate redistricting map and granted appellee's request for a declaratory judgment, holding that the map did not violate Section 5 of the 1965 Voting Rights Act..

6.

On June 20, 2002, the U.S. District Court for the Northern District of Georgia heard and considered Michael B. King's request for temporary restraining order and preliminary injunctive relief.

7.

On June 19, 2002, Appellant Michaell B. King filed his second Complaint for Injunctive and Other Equitable Relief pursuant to Section 2 of the 1965 Voting Rights Act as to the revised state senate redistricting map. Appellant requested preliminary and permanent injunctive relief preventing appellee from holding the election for Senate District 44 pursuant to House Bill 1667, Act 444.

8.

On July 10, 2002, appellee filed its answers to

appellant's first and second complaints for injunctive relief.

9.

On June 24, 2002, appellants Yolanda Yvette Galimore and Eugene Green, Jr. filed their Complaint for Injunctive and Other Equitable Relief pursuant to Section 2 of the 1965 Voting Rights Act. The appellants requested preliminary and permanent injunctive relief preventing the State of Georgia from holding the election for Senate District 44 pursuant to the revised state senate map in House Bill 1667, Act 444.

10.

On July 18, 2002, the district court entered an order denying the appellants' requests for temporary restraining orders and preliminary injunctions.

11.

On August 15, 2002, the appellants filed their notice of appeal of the district court's July 18, 2002 order denying their requests for temporary restraining orders and preliminary injunctions.

12.

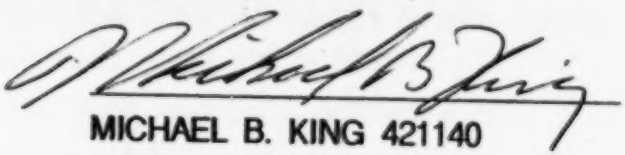
On August 20, 2002, the appellee proceeded with the contested primary election for Senate District 44.

CONCLUSION

This Court has jurisdiction to consider this appeal and reverse and vacate the district court's July 18, 2002 Order denying the appellants' requests for temporary restraining order and preliminary injunctions and void the August 20, 2002 primary election for Senate District 44 pursuant to 42 U.S.C. Section 1253 and 42 U.S.C. Section 1973.

This 14th day of October, 2002.

Respectfully submitted,



MICHAEL B. KING 421140
Georgia Bar No. 421140
Attorney for Appellants
116 S. Main St.
Suite 9
Jonesboro, GA 30236
(770) 478-3555

APPENDIX A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL B. KING, JR.,	:	
Plaintiff,	:	
v.	:	1:01-CV-3140-CAM
	:	
STATE OF GEORGIA,	:	
Defendant,	:	

MICHAEL B. KING, JR.,	:	
Plaintiff,	:	
v.	:	1:02-CV-1687-CAM
	:	
STATE OF GEORGIA,	:	
Defendant,	:	

YOLANDA YVETTE GALIMORE	:	
and EUGENE GREEN, JR.	:	
Plaintiffs,	:	
v.	:	1:02-CV-1752-CAM
	:	
STATE OF GEORGIA,	:	
Defendant.	:	

Filed Jul 18, 2002

ORDER

The above three captioned cases are consolidated for all purposes.

A Pre-Trial Conference was held on June 20, 2002. For the reasons stated during that Conference, the Court now orders:

1) that Defendant's motion to dismiss is DENIED;

2) that service upon Plaintiffs by fax at (770) 477-7068 will be good service, and a fax report showing successful transmission will be deemed proof of service;

3) that service may also be perfected upon Plaintiffs in the normal ways;

4) that Plaintiffs' requests for temporary restraining orders and preliminary injunctions are DENIED;

5) that the parties serve and file all mandatory disclosures and documents on or before August 5, 2002;

6) that Defendant file its answer within 20 days from August 5, 2002;

7) that on or before August 16, 2002, Michael B. King, pro se in Civil Action Nos. 1:01-CV-3140-CAM and 1:02-CV-1687-CAM and as Plaintiffs' attorney in Civil Action No. 1:02-CV-1752-CAM, and Defendant's attorneys hold a face-to-face conference at Mr. King's office at a mutually agreed upon time (the burden being upon Mr. King to contact Defendant's attorneys and schedule the conference) to determine what evidence may be stipulated or provided from the record in State of Georgia v. Ashcroft, Civil Action No. 01-2111(EGS HTE LFO), and to set a schedule for additional depositions or other discovery;

8) that the parties promptly provide the Court a report of the results of that discovery conference: and

9) that upon failure of any party to comply with this Order within the specified times, Plaintiffs and/or Defendant shall so notify this Court on or before August 23, 2002, and the Court will take such further action as may be required.

This order is applicable in all respects to King v. Georgia, 1:02-CV-1687-CAM, filed June 19, 2002, and Galimore, et al. v. Georgia, 1:02-CV-1752-CAM, filed June 24, 2002, which by this order are hereby consolidated with King v. Georgia, 1:01-CV-3140-CAM. A single answer by Defendant with respect to the three consolidated cases will be sufficient. Likewise, only one set of initial and expert disclosures is required.

SO ORDERED, this 18th day of July, 2002.

SIGNED

UNITED STATES DISTRICT JUDGE
CHARLES A. MOYE, JR.

CAM:J

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL B. KING,	*	
Plaintiff,	*	CIVIIL ACTION
v.	*	
	*	NOS. 1:01-CV-3140-CAM
STATE OF GEORGIA,	*	1:02-CV-1687-CAM
Defendant.	*	

YOLANDA YVETTE GALIMORE		
and EUGENE GREEN, JR.,	*	
Plaintiffs,	*	
v.	*	CIVIL ACTION
	*	
STATE OF GEORGIA,	*	NO. 1:-2-CV-1752-CAM
Defendant.	**	

Filed AUG 15, 2002

NOTICE OF APPEAL

Notice is hereby given that the plaintiffs herein appeal to the United States Supreme Court from the July 18, 2002 order of the court denying the plaintiffs' petitions for injunctions.

The clerk shall transmit the entire case record on appeal to the Clerk of the United States Supreme Court, including the June 20, 2002 and August 15, 2002 hearing transcripts.

This 15th day of August, 2002.

SIGNED

MICHAEL B. KING 421140
Attorney for Plaintiffs

116 S. Main St.
Suite 9
Jonesboro, GA 30236
(770) 478-3555